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10/755,032	01/09/2004	Hideo Ikeno	CANO:112	7881

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/755,032	IKENO, HIDEO
	Examiner	Art Unit	
	Anthony Mejia	4117	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _June 16, 2004_.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-18_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All b)☐ Some * c)☐ None of:
      1.☒ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _01/09/2004, 8/25/2005, 6/05/2006_.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1.   Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file. For the purposes of further examination, the application will be treated as having an effective filing date of 1/09/04.

2.   Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Claim Objections

3.   Claim 15 is objected for insufficient antecedent basis. This claim recites the limitation "determining step" in line 3 of the claim, which lacks antecedent basis for this limitation.

In further, Claims 15 is also objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a *previous* claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 16 is also objected as inheriting the same informalities through its dependency of Claim 15. For the purposes of examination, the examiner will interpret Claims 15-16 as being dependent to Claim 14. Appropriate correction is required.

Specification

4.   The specification is objected to as failing to provide clear support or antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The meaning of every term and expressions used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import.

For example, in this case, the terms: "e-mail device", "processing device", "information collecting device", "returning device", and "receiving device" used in claim 1 and the term "decoding device" used in claim 3, "instructing device", and "acquisition device" used in claim 4, and "determining device" used in claim 6 are not apparent from the descriptive portion of the specification with clear disclosure as to its import.

In this case, the written description as filed fails to be a dictionary for the claims and should provide clear support or antecedent basis for all terms used in the claims see 608.01(g). The claim or claims do not conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims do not find the clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description (see 37 CFR 1.75 (d) (1), and see MPEP § 1.58(a)). Usually the terminology of the original claims should follow the nomenclature of the specification; the use of a confusing variety of terms for the same thing should not be permitted. It is also noted that exact terms need not to be used in haec verba to satisfy the written description requirement of the first paragraph of 35 U.S.C. 112. However, 37 CFR 1.121(e) requires substantial correspondence

between the language of the claims and the language of the specification (see §
608.01(o), and § 1302.01).

Specifically, in this case, for example claim 1, the claimed term "e-mail device" is
not found in written description as filed, the closest element performing the claimed
functionalities is (monitoring apparatus 1) described in (par [0059]) of the specification;

the claimed term "processing device" is not found in written description as filed,
the closest term element performing the claimed functionalities is (monitoring apparatus
1) described in (par [0076]) of the specification;

the claimed term "information collecting device" is not found in written description
as filed, the closest term element performing the claimed functionalities is (monitoring
apparatus 1) described in (par [0089]) of the specification;

The claimed term "returning device" is not found in written description as filed,
there is not an "element", entity or particular "returning process", there sees to be no
specific entity/component performing the claimed function as described on (par [0089])
of the specification, rather it seems to be (return e-mail process) according to the before
mentioned cited portion. Given that the "returning device" is not described as a device,
entity, or component rather it is a step. For the purposes of examination, it will be
interpreted as a step, act, or function performed by the monitoring apparatus.

Hence, given that claimed terms "e-mail device", "processing device",
"information collecting device" and "returning device" do not have antecedent basis in
the specification, and/or the terms and phrases used in the claims do not find clear
support or antecedent basis in the description meaning of the terms in the claims may

be ascertainable by reference to the description, they will be given the broadest reasonable interpretation (see MPEP 2111) For the purposes of examination, they will also be interpreted as a step, act, function or process performed by the monitoring apparatus.

Regarding Claims 2-3, similar issues that are noted in the claim terms "receiving device" and "decoding device", it will also be interpreted as a step, act, or function performed by the monitoring apparatus.

In further, Claims 4-5, the claimed term "instructing device" is not found in written description as filed, the closest element performing the claimed functionalities is (management server/host 6) described in (par [0096]) of the specification;

the claimed term "acquisition requesting device" is not found in written description as filed, the closest term element performing the claimed functionalities is (pre-processing version information acquiring process) described in (par [0097]) of the specification;

the claimed term "acquisition device" is not found in written description as filed, the closest term element performing the claimed functionalities is (post-processing version information reply process) described in (par [0099]) of the specification;

Regarding Claims 6-8, similar issues that are noted in the claim term "determining device", it will also be interpreted as a step, act, or function performed by the monitoring apparatus.

Hence, given that claimed terms "instructing device", " acquisition requesting device", "acquisition device", and "determining device" do not have antecedent basis in

the specification, and/or the terms and phrases used in the claims do not find clear

support or antecedent basis in the description meaning of the terms in the claims may

be ascertainable by reference to the description, they will be given the broadest

reasonable interpretation (see MPEP 2111) For the purposes of examination, they will

also be interpreted as a step, act, or function performed by the management apparatus.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or
> composition of matter, or any new and useful improvement thereof, may obtain a patent therefor,
> subject to the conditions and requirements of this title.

Claims 17-18 are rejected under 35 U.S.C. §101 as being directed to non-

statutory subject matter.

In this case, Claims 17-18 seem to claim "a program" which is basically software,

computer-related inventions whether descriptive or functionally descriptive material are

non-statutory categories when claimed as descriptive material *per se* (see Warmerdam,

33 F.3d at 1360 USPQ2d at 1759), falling under the "process" category (i.e. inventions

at that consist of a series of steps or acts to be performed). See 35 U.S.C. 100(b) ("The

term process means, art, or method, and includes a new of a known process, machine,

manufacture, composition of matter or material"). Functional descriptive material: "data

structures" representing descriptive material *per* se or computer program representing

computer listing *per* se (i.e. software *per* se) when embodied in a computer-readable

media are still not statutory because they are not capable of causing functional change

in the computer. However, a claimed computer-readable storage medium encoded with

a data structure, computer listing or computer program, having defined structural and

functional interrelationships between the data structure, computer listing or computer

program and the computer software and hardware component, which permit the data

structure's, listing or program's functionality to be realized, is statutory (see MPEP

2106).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1, 4, 9, 12, and 17-18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ogura (US 2004/0148379) and in further view of Oya (US 6,954,720)

Regarding Claim 1, Ogura discloses a monitoring apparatus (e.g., intermediary

apparatuses, 101 of fig.23) capable of acquiring information by communication from at

least one image forming apparatus (e.g., image-forming apparatuses, 100 of fig.23) to

be monitored and communicating with a management apparatus (managing apparatus,

102 of fig.23) comprising:

an e-mail device (e.g., intermediary apparatuses, 101 of fig.23) that carries out

communication with the management apparatus (par [0253], s101 of fig.23);

a processing device (e.g., intermediary apparatuses, 101 of fig.23) operable when it has received second modules (e.g., first software) for updating first modules (e.g., second software) on which the monitoring apparatus operates, from the management apparatus, to automatically update the first modules in operation to the second modules (par [0019] and par [0286] and s123 of fig.23);

an information collecting device (e.g., intermediary apparatuses, 101 of fig.23) that collects version information on the first modules when it has received a version information acquisition request from the management apparatus (par [0257], s106 of fig.23); and

a returning device (e.g., intermediary apparatuses, 101 of fig.23) that sends the version information collected by said information collecting device to the management apparatus (par [0258], s107 of fig.23).

Although Ogura teaches a step of communicating with a management apparatus, he does not disclose that it is particularly by email.

Although Ogura teaches the step operable for receiving second modules for updating first modules on which the monitoring apparatus operates from the management apparatus via respective communication, he does not explicitly disclose that this step is operable particularly when said email device has received second modules.

Although Ogura teaches the step of collecting version information on the first modules received form the management apparatus, he does not particularly discloses

when said email device has received information acquisition by email.

Although Ogura teaches sending the version information collected to the management apparatus, he does not particularly discloses that it is returned via email.

However, Oya in a similar field of endeavor such as monitoring apparatus and management apparatus with management methods and programs discloses wherein an "e-mail device" (monitoring apparatus, 1 of fig.1), a "processing device" (monitoring apparatus, 1 of fig.1), an "information collecting device" (monitoring apparatus, 1 of fig.1), and an "returning device" (monitoring apparatus, 1 of fig.1) communicates with a management apparatus (6 of fig.1) by e-mail (col.16, lines 1-4).

It would have been obvious to one of ordinary skill at the time the invention was made to utilize the teachings of Oya in Ogura in providing a related notification such as an e-mail, to the users of the system and its image-forming devices. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Ogura and Oya to provide a familiar communication method such as an e-mail to help facilitate the difficulty that maybe presented to the users of the system in maintaining the software of the system's image-forming devices up to date.

Regarding Claim 4, the combined teachings of Ogura and Oya disclose a management apparatus (managing apparatus, 102 of fig.23) capable of managing a plurality of monitoring apparatuses (e.g., intermediary apparatuses 101 of fig.23) that acquire information by communication from a plurality of image forming apparatuses (e.g., image-forming apparatuses, 100 of fig.23) to be monitored, comprising:

an instructing device (managing apparatus, 102 of fig.23) that collectively instructs the plurality of monitoring apparatuses (e.g., intermediary apparatuses 101 of fig.23) to update first modules (e.g., second software), on which the plurality of monitoring apparatuses operate, to second modules (e.g., first software) (par [0024 and 0286], and s122 of fig.23);

an acquisition requesting device (managing apparatus, 102 of fig.23) that collectively gives a request for acquisition of version information on the first modules to the plurality of monitoring apparatuses (e.g., intermediary apparatuses, 101 of fig.23) (par [0256] and s105 of fig.23); and

an acquisition device (managing apparatus, 102 of fig.23) that acquires the version information from the plurality of monitoring apparatuses as replies for requesting acquisition of the version information sent by said acquisition requesting device (par [0258] and s107 of fig.23).

Ogura does not explicitly disclose wherein an "instructing device" instructs the plurality of monitoring apparatuses to update first modules, on which the plurality of monitoring apparatuses to update first modules, on which the plurality of monitoring apparatuses operate, to second modules *by e-mail*, nor an "acquisition requesting device" that collectively gives a request for acquisition of version information on the first modules to the plurality of monitoring apparatuses by *e-mail*, and an "acquisition device" that acquires the version information from the plurality of monitoring apparatuses as replies to *e-mails* for requesting acquisition of the version information sent by said acquisition requesting device.

However, Oya discloses wherein an "instructing device" (monitoring apparatus, 1
of fig.1), an "acquisition requesting device" (monitoring apparatus, 1 of fig.1), an
"acquisition device" (monitoring apparatus, 1 of fig.1), communicates with a
management apparatus (6 of fig.1) by e-mail (col.16, lines 1-4).

Regarding Claim 9, Ogura discloses a control method executed by a monitoring
apparatus (e.g., intermediary apparatuses, 101 of fig.23) capable of acquiring
information by communication from at least one image forming apparatus (e.g., image-
forming apparatuses, 100 of fig.23) to be monitored, and communicating with a
management apparatus (managing apparatus, 102 of fig.23), comprising;

a communication (e.g., intermediary apparatuses, 101 of fig.23) step of carrying
out communication with the management apparatus (par [0253], s101 of fig.23);

a processing (e.g., intermediary apparatuses, 101 of fig.23) step of automatically
updating first modules (e.g., second software) in operation, on which the monitoring
apparatus operates, to second modules (e.g., first software) for updating the first
modules when the second modules is received from the management apparatus in said
communication step;

an information collecting (e.g., intermediary apparatuses, 101 of fig.23) step of
collecting version information on the first modules when a version information
acquisition request is received from the management apparatus (par [0257], s106 of
fig.23) in said communication step; and

a retuning (e.g., intermediary apparatuses, 101 of fig.23) step of sending the

version information collected in said information collecting step to the management

apparatus (par [0258], s107 of fig.23).

In further, Ogura does not explicitly disclose wherein a "communication step", nor

does a "processing step", nor does an "information collecting step" of a monitoring

apparatus communicates with a management apparatus by e-mail.

However, Oya discloses wherein a "communication step" (monitoring apparatus

(1 of fig.1)), a "processing step" (monitoring apparatus (1 of fig.1)), an "information

collecting step" (monitoring apparatus (1 of fig.1)) of a monitoring apparatus

communicates with a management apparatus (6 of fig.1) by e-mail (col.16, lines 1-4).

Regarding Claim 12, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 4 above, same rationale of

rejection is applicable.

Regarding Claim 17, Ogura further discloses a program for causing a computer

to execute a control method implemented by a monitoring apparatus (e.g., intermediary

apparatuses, 101 of fig.23) capable of acquiring information by communication from at

least one image forming apparatus (e.g., image-forming apparatuses, 100 of fig.23) to

be monitored, and communicating with a management apparatus (managing apparatus,

102 of fig.23), (par [0024]) the method comprising:

a communication (e.g., intermediary apparatuses, 101 of fig.23)   step of carrying

out communication with the management apparatus (par [0253], s101 of fig.23);

a processing (e.g., intermediary apparatuses, 101 of fig.23) step of automatically

updating first modules (e.g., second software) in operation, on which the monitoring

apparatus operates, to second modules (e.g., first software) for updating the first

modules when the second modules is received from the management apparatus in said

communication step;

an information collecting (e.g., intermediary apparatuses, 101 of fig.23) step of

collecting version information on the first modules when a version information

acquisition request is received from the management apparatus (par [0257], s106 of

fig.23) in said communication step; and

a returning (e.g., intermediary apparatuses, 101 of fig.23) step of sending the

version information collected in said information collecting step to the management

apparatus (par [0258], s107 of fig.23).

In further, Ogura does not explicitly disclose wherein a "communication step", nor

does an "information collecting step", nor does a "returning step" of a monitoring

apparatus communicates with a management apparatus by e-mail

However, Oya discloses wherein a "communication step", and an "information

collecting step", and a "returning step" of the monitoring apparatus (1 of fig.1)

communicates with a management apparatus (6 of fig.1) by e-mail (col.16, lines 1-4).

Regarding Claim 18, this program claim for causing a computer to execute a

control method comprises limitation(s) substantially the same, as those discussed on

claim 4 above, same rationale of rejection is applicable.

8.   Claims 2-3, 5, 10-11, and 13 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ogura in further view of Oya, and in further view of Anderson et al.

(US 2004/0249934) (referred herein after as Anderson)

        Regarding Claim 2, the combined teachings of Ogura and Oya discloses a

monitoring apparatus as described in claim 1 above. The combined teachings of Ogura

and Oya disclose a monitoring apparatus further comprising:

        a receiving device (Ogura: e.g., intermediary apparatuses, 101 of fig.23)   that

receives an update instruction (Ogura: e.g., software updating method) containing at

least the second modules (Ogura: e.g., first software) (par [0024] and par [0286] and

s123 of fig.23) and an acquisition request requesting acquisition of the version

information indicative of versions (Ogura: e.g., version information, par [0216]) of

respective ones of the first modules in the monitoring apparatus and a version of the

monitoring apparatus as a whole (Ogura: e.g., polling information, see par [0254])

(Ogura: par [0255] and s104 of fig.23) wherein said processing device, and updates the

first modules in operation to the second modules contained in the update instruction

(Ogura: e.g., software updating method) received by said receiving device (Ogura: par

[0018], par [0024] par [0286] and s123 of fig.23); and

        said information collecting device collects the version information in response to

the acquisition request received by said receiving device (Ogura: par [0018] and par

[0286 and s123 of fig.23); and

        said returning device sends the version information collected by said information

collecting device to the management apparatus (Ogura: par [0258] and s107 of fig.23).

Oya discloses wherein a "receiving device" (monitoring apparatus, 1 of fig.1) and a management apparatus (6 of fig.1) communicate by e-mail (col.16, lines 1-4).

In further, the combined teachings of Ogura and Oya do not disclose wherein the update instruction contains an install script, and wherein said processing device activates the install script contained in the update instruction.

However, Anderson in a similar field of endeavor such as updating print server software based on update emails, discloses wherein an update instruction (e.g., installation information file 138 of fig.1) contains an install script (e.g., instructions in installation information file, 138 of fig.1) and wherein a processing device (e.g., bootstrap service component 208E of fig. 3) activates (applies) the install script contained in the update instruction received by a receiving device (e.g., bootstrap service component 208E of fig. 3) (par [0039-0040]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Anderson in Ogura and Oya to help minimize processing loads and time by providing an automated script that will give automated instructions to update the software on the monitored image-forming devices. One of ordinary skill in the art at the time the invention was made, would have been motivated to combine the teachings of Ogura/Oya with Anderson to help optimize the updating of software on the monitored image-forming devices, and to help minimize the time needed to process the updates, thus minimizing system utilization costs.

Regarding Claim 3, the combined teachings of Ogura/Oya and Anderson further disclose a decoding device (Anderson: e.g., bootstrap service component 208E of fig. 3) that decodes (extracts) contents of an e-mail (Anderson: e.g., software update email) (Anderson: par [0050]) received by said e-mail device (Ogura: e.g., intermediary apparatuses, 101 of fig.23), and wherein a processing device (Anderson: e.g., bootstrap service component 208E of fig.3) interprets an instruction (Ogura: e.g., software updating method) from the management apparatus (managing apparatuses, 102 of fig.23) from the contents of the received e-mail decoded by said decoding device (e.g., bootstrap service component 208E of fig.3) and performs processing (e.g., software updating) according to the interpreted contents of the e-mail (Anderson: par [0038-0039]).

Regarding Claim 5, the combined teachings of Ogura/Oya and Anderson further disclose wherein said instructing device collectively transmits update instruction (Ogura: e.g., software updating method) containing at least the second modules (Ogura: e.g., first software) for updating the first modules (Ogura: e.g., second software) of respective ones of the plurality of monitoring apparatuses (Ogura: par [0024] and par [0286] and s123 of fig.23) and an install script (Anderson: e.g., instructions in installation information file, 138 of fig.1) to the plurality of monitoring apparatuses, said acquisition requesting device collectively transmits acquisition request for requesting acquisition of version information indicative of versions of respective ones of the modules in each of the plurality of monitoring apparatuses (Ogura: e.g., intermediary apparatuses, 101 of

fig.23)   and a version of each of the plurality of monitoring apparatuses as a whole

(e.g., polling information) to the plurality of monitoring apparatuses (Ogura: par [0255]

and s104 of fig.23); and

said acquisition device receives the version information from the plurality of

monitoring apparatuses as replies to the acquisition request e-mails transmitted by said

acquisition requesting device (Ogura: par [0258] and s107 of fig.23).

Regarding Claim 10, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 2 above, same rationale of

rejection is applicable.

Regarding Claim 11, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 3 above, same rationale of

rejection is applicable.

Regarding Claim 13, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 5 above, same rationale of

rejection is applicable.

9.   Claims 6, 8,14, and 16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Ogura in view of Oya, and in further view of Sandahl et al. (US

6,098,098) (referred herein after as Sandahl)

Regarding Claim 6, the combined teachings of Ogura and Oya disclose a management apparatus as described in claim 4 above. The combined teachings of Ogura and Oya does not explicitly disclose a determining device that compares version information indicative of versions of the first modules to be taken after update of the first modules in accordance with an instruction for updating the first modules to the second modules with the version information acquired by said acquisition device to determine whether the first modules have been successfully updated.

However, Sandahl in a similar field of endeavor such as a system for managing the configuration of multiple computer devices, disclose a determining device (e.g., managed device) that compares version information indicative of versions of the first modules (e.g., configuration files, which include version information, see col.7, lines 9-12) to be taken after update of the first modules in accordance with an instruction for updating the first modules to the second modules with the version information (e.g., transferred configuration files, which include version information, see col.7, lines 9-12) acquired by an acquisition device (e.g., managed device) to determine whether the first modules have been successfully updated (e.g., results indicating whether managed device update was successfully completed) (col.7, lines 52-67).

It would have been obvious to one of ordinary skill at the time the invention was made to utilize the teachings of Sandahl in Ogura/Oya to help in assuring that the interoperation of the monitored devices perform at the most updated configuration by comparing the version information. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Ogura/Oya

and Sandahl to be able to detect and correct the supposed revised configuration of the

monitored devices before their operation is adversely effected.

Regarding Claim 8, the combined teachings of Ogura/Oya and Sandahl further

discloses wherein the version information indicative of versions of the first modules

(Ogura: i.e., VerA) to be taken after update of the first modules is second version (i.e.,

VerA->C) information indicative of a version of each of the plurality of monitoring

apparatuses as a whole (Ogura: fig.20); and

the second version information corresponds to a combination of the first

modules in each of the plurality of monitoring apparatuses (Ogura: par [0234]).

Regarding Claim 14, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 6 above, same rationale of

rejection is applicable.

Regarding Claim 16, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 8 above, same rationale of

rejection is applicable.

10.   Claims 7, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ogura in view of Oya, and in further view of Sandahl and yet in further view of Lim

(US 2003/0005351)

Regarding Claim 7, the combined teachings of Ogura/Oya and Sandahl further disclose wherein said instructing device (managing apparatus, 102 of fig.23) collectively instructs the monitoring apparatuses (e.g., intermediary apparatuses 101 of fig.23) to update the first modules (e.g., second software).

The combined teachings of Ogura/Oya and Sandahl do not disclose when said instructing device collectively instructs the monitoring apparatuses to update the first modules when said determining device ascertains that the modules have not been successfully updated.

However, Lim, in a similar field of endeavor such as a method of upgrading software in a network environment, discloses an instructing device (e.g., service provider, see par [0036]) collectively instructs the monitoring apparatuses (e.g., network device, see par [0036]) to update the first modules when said determining device ascertains that the modules have not been successfully updated (abstract, par [0038-0039] and s207 of fig.2).

It would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Lim in Ogura/Oya/Sandahl to help minimize redundancy by automatically reattempting the update configuration. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Ogura/Oya/Sandahl and Lim, to help prevent the utilization of other resources of the monitoring and management system and to help increase the

optimization of the system.

Regarding Claim 15, this control method claim comprises limitation(s)

substantially the same, as those discussed on claim 7 above, same rationale of

rejection is applicable.

Other Pertinent Prior Art

11.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

A. Parthesarathy et al. (US 6,353,926) discloses a method for software update

notification.

B. Gruber (US 7,266,840) discloses a method and system for secure, authorized

e-mail based transactions

C. Fengler et al. (US 2005/0027807) discloses systems and methods for

facilitating peripheral device firmware installation.

D. Sato (US 2004/0150851) discloses an image forming apparatus that stores

firmware.

E. Parry (US 2003/0217124) discloses a firmware/software upgrade alert method

and apparatus.

F. Yang (US 6,467, 087) discloses a method for updating a printer firmware.

G. Roush (US 6,892,320) discloses a method and apparatus for providing multiple-version support for highly available objects.

H. San Martin et al. (US 2002/0087668) discloses an automatic upgrade of live network devices.

I. Egan et al. (US 2005/0066019) discloses a computer application and methods for autonomic upgrade maintenance of computer hardware, operating system, and application software.

J. Sakanishi (US 6,678,888) discloses a method and system for software distribution.

K. Nakagawa et al. (US 5,835,911) discloses a software distribution and maintenance system and method.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Mejia whose telephone number is 571-270-3630. The examiner can normally be reached on Mon-Thur 7:30AM - 5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beatriz Prieto can be reached on 571-272-3902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Status information for unpublished applications is available through Private PAIR only.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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